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DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

In re application of

Drew Shaffer Roselli et al.

Application No. 09/624,747

Filed: July 24, 2000

For: FAULT-TOLERANCE FRAMEWORK FOR
AN EXTENDABLE COMPUTER ARCHITECTURE

DECISION ON REQUEST
FOR WITHDRAWAL OF
ATTORNEY

This is a decision on the renewed request filed on November 26, 2002, under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application.

The request is **NOT APPROVED**.

Under 37 CFR 1.36 an attorney may withdraw only upon application to and approval by the Commissioner. It should be noted that a withdrawal is effective when approved, not when filed. Besides giving due notice to his or her client and delivering to the client all papers and property to which the client is entitled as specified under 37 CFR 10.40, approval of such a request requires that the following conditions be met:

- A) Each attorney of record must sign the notice of withdrawal, or the notice must contain a clear indication of one attorney signing on behalf of another, because the Office does not recognize law firms;
- B) A proper reason for the withdrawal as enumerated in 37 CFR 10.40(b) or subsection (1)-(6) of 37 CFR 10.40(c) must be provided; and
- C) If withdrawal is requested in accordance with 37 CFR 10.40(c) above, there must be at least 30 days between approval of the withdrawal and the later of the expiration date of a time period for reply or the expiration date of the period which can be obtained by a petition and fee for extension of time under 37 CFR 1.136(a).

The request to withdraw as attorney is not accepted in the above-identified application because the request lacks condition B) above.

As to condition B), given the statements included in the request that, "The assignee is... attempting to find a purchaser of the company" and, "Whatever new form the company takes, if any, new attorneys are required"; it is not clear that the statements satisfy one of the valid reasons for withdrawal under 37 CFR 10.40 (b)(1)-(4) or (c)(1)-(6). Simply because a company is restructuring or attempting to be sold, that does not automatically meet one of the acceptable reasons for an attorney withdrawal. Condition B) can be met by clearly specifying one of the valid reasons for withdrawal under 37 CFR 10.40 (b)(1)-(4) or (c)(1)-(6).



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